

PUBLIC NOTICE

June 1, 2007

St. Joseph Circuit, Superior and Probate Courts Proposed Local Court Rule Change

The following proposed additions, amendments and/or deletions to the St. Joseph County Local Court Rules which affect case filings are posted for public comment.

- a. Preamble
- b. LR71-TR77-201. Filing, Pleading and Motions.
- c. LR71-TR69-219. Proceedings Supplemental; Other Collection Remedies.
- d. LR71-FL00-402. Case Captioning.
- e. LR71-FL00-403. Family Cases Involving Unemancipated Children.
- f. LR71-FL00-408. Status Conferences.
- g. LR71-FL00-410. Trials and Pre-trial Conferences.
- h. LR71-FL00-413. Mandatory Website Work and Co-Parenting Class.
- i. LR71-FL00-416. Standing Order for Parental Education Workshop.
- j. LR71-FL00-429. Reserved.
- k. LR71-FL00-430. Title IV-D Court.
- l. LR71-AR00-1002. Sheriff Service Fee.

Each of the above rules is on a separate page and, on all such pages, deletions are shown by ~~striking~~ and new text is shown by underlining.

Anyone interested in commenting, should send comments to one of the following addresses:

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Comments must be received by July 1, 2007. Following a review of the public comments, the St. Joseph County Courts will adopt, modify, or reject the proposed local rule changes by July 31, 2007.

After the St. Joseph County Courts have adopted or modified these rules, they will be submitted to the Indiana Supreme Court by August 1, 2007. The effective date for these rules will be January 1, 2008, with the exception of LR71-FL00-430, et seq. which will be effective on August 1, 2007, or when approved by the Courts of St. Joseph County.

LOCAL RULES FOR ST. JOSEPH COUNTY, INDIANA

PREAMBLE

It is intended that the business of the Courts in St. Joseph County will be conducted by the Judges and Magistrates in a manner consistent with the Indiana Code of Judicial Conduct and that the attorneys and litigants shall conduct themselves consistent with the requirements of the Indiana Rules of Professional Conduct and other rules of court. The conduct of proceedings in Courts within St. Joseph County is appropriately described by the following quotation:

“[L]itigation provides an opportunity for private parties to dispose of disputes in orderly and disciplined fashion. But the open forum which our courts provide for conflict resolution is not, nor can it ever be, a license to slander and abuse one’s adversary. Such conduct diminishes the integrity of an institution whose usefulness depends upon the respect in which it is held by the public and by the lawyers who practice in it.”

Van Iderstine Company v. RGJ Contracting Co., Inc., 480 F.2d 454 (2nd Cir. 1973).

As noted by former Chief Justice Warren E. Burger, “fixed rules of etiquette and manners are the lubricant to keep the focus of the courtroom contest on issues and facts and away from distracting personal clashes and irrelevancies.” *Burger, ABA Journal* 2, 74 Vol. 60, p.171 (1974).

With this in mind, lawyers and litigants are enjoined regarding their continuing obligation to comply with the rules of court and to maintain an atmosphere of civility within the courtrooms in St. Joseph County.

LOCAL CIVIL RULES FOR ST. JOSEPH COUNTY (200 SERIES)

Rule LR71-TR77-201. Filing, Pleading, and Motions.

201.1. Flat Filing. In order that the Clerk's files may be kept under the system commonly known as "flat filing," all papers presented to the Clerk for filing shall be flat and unfolded. Pleadings shall have no covers or backs and shall be fastened together at the top left-hand corner only.

201.2. Filing with the Clerk. The entry of appearances and the filing of pleadings or other matters not requiring immediate Court action shall be filed with the Court Clerk and not in open Court. A Judge may permit papers to be filed in chambers, in which event he or she shall note thereon the filing date and transmit the papers to the Court Clerk.

201.3. Format of Pleadings. All pleadings, motions, and other papers shall be prepared in accordance with the applicable provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

201.3.1. Paper. Pleadings, motions, and other papers shall be either legibly printed or typewritten on white opaque paper of good quality at least sixteen (16) pound weight, eight and one-half inches (8 ½") in width and eleven inches (11") in length as required by A.R. 11. All copies shall likewise be on white paper of sufficient strength and durability to resist normal wear and tear.

201.3.2. Style, Margins, Spacing, and Font. Printing shall be on one side of the paper. Margins shall be at least one inch (1"). If typewritten, the lines shall be double spaced except for quotations, which shall be indented and single-spaced. Type face shall be 12 font size or larger within the body of the document and 10 font size or larger in the footnotes. The font type must be legible and script type shall not be used. Italicized type may be used for quotations, references, or case citations.

201.3.3. Caption. Every pleading shall contain a caption setting forth the name of the Court, the title of the action and the cause number. Where applicable, the pleading shall also contain a Quest or other CMS file number. If a special judge has been assigned to the case, the pleading should also identify the special judge.

201.3.4. Title. All pleadings or motions shall include a title, which shall delineate each topic included in the pleading. For

Rule LR71-TR69-219. Proceedings Supplemental; Other Collection Remedies.

- 219.1. Post-Judgment Proceedings.** Post-judgment proceedings shall not be instituted until ten (10) calendar days have elapsed since the entry of a final decree or judgment in the records of the Clerk of the Court. The Court may waive this requirement where it is shown that a party will be unduly harmed by its enforcement or where a rule of court or statute specifically provides otherwise.
- 219.2. Notification of Appearance; Local Counsel.** If at the time of filing of a proceedings supplemental or any time thereafter, counsel for the moving party or a party proceeding *pro se* determines that he or she will not attend the hearing in person, the counsel or the moving party shall notify the Court in writing of the substitute or local counsel who will be in attendance at the hearing. Failure to comply with these notification procedures may be enforced by direct contempt of court.
- 219.3. Special Post-Judgment Procedures.** Unless an emergency or other good cause is shown, any party filing for an extraordinary collection remedy (account freeze, employment information, garnishment) shall have ~~filed~~ previously filed or ~~contemporaneously~~ a proceedings supplemental and interrogatories responses, as appropriate.
- 219.4. Penalties for Failure to Comply.** Unless good cause is shown, the failure of counsel or a moving party to comply with this rule or to appear for a scheduled hearing on proceedings supplemental may be enforced by ~~direct~~ contempt of court, and may result in a monetary fine or other appropriate penalty.

LOCAL RULES FOR FAMILY COURT AND ORDERS OF PROTECTION FOR ST. JOSEPH COUNTY (400 SERIES)

Rule LR71-FL00-402. Case Captioning.

Parents in marital dissolution, separation, and paternity cases will either not be captioned or designated only as "Petitioner" or "Respondent."

All pleadings in marital dissolution and separation cases in which the parties have one or more children under the age of twenty-two (22) on the date of the initial filing will be captioned, "In Re the Marriage of _____, Petitioner (Father (or Mother)/~~Petitioner~~, and _____, Respondent (Mother (or Father)/~~Respondent~~."

All pleadings in marital dissolution and separation cases without children will be captioned, "In Re the Marriage of _____, Petitioner, and _____, Respondent."

Parties in paternity cases will be captioned as required by statute.

Rule LR71-FL00-403. Family Cases Involving Unemancipated Children.

403.1. Contested Matters.

403.1.1. Referrals for Investigation and Report. All contested matters involving child custody and parenting time shall be referred to the Domestic Relations Counseling Bureau (DRCB) for intake, investigation, and/or report, prior to hearing, both before and after a final decree, on motion of either party with the consent of the Court, or on the Court's own motion. The DRCB shall conduct an investigation and report to the Court on all contested matters referred to its attention. The DRCB shall file its original investigative report with the Court, which shall distribute copies to counsel, or to a party unrepresented by counsel.

403.1.2. Definition. "Contested matters," for purposes of this rule, shall include issues involving child custody and parenting time, which may exist both before and after the entry of a final decree.

403.1.3. Cooperation of Parties. The parties to contested matters shall meet, and cooperate, with the DRCB as required

403.2. Uncontested Matters. The parents of unemancipated children are encouraged to develop a parenting plan that is mutually acceptable to the parents and their children. Where practicable and appropriate for all concerned, the Court shall give due consideration to agreements between parents.

Rule LR71-FL00-408. Status Conferences.

A status conference may be requested at any time and one may be set by the Court on its own motion ~~approximately 45-90 days~~ after the filing of the initial petition for dissolution.

The primary purpose of the status conference will be for attorneys and unrepresented parents to review with the Court the progress being made as it pertains to the resolution of outstanding issues. Attorneys and parents are expected to assist by informing the Court of all efforts being made to resolve the conflicts in order to protect and serve the immediate and long term best interests of the children.

Counsel and parents should be ready to provide to and discuss with the Court:

- (1) The parent's most current *Parenting Plan Worksheet (PPW)*. If the parents have not completed a joint parenting plan, each parent is expected to prepare and provide his or her own *PPW*.
- (2) A list of community resources the parents could use to assist them in resolving their parenting issues.
- (3) A copy of the parents' *Agreed Commitments* from their website work as provided in Rule LR71-FL00-413.

Rule LR71-FL00-410. Trials and Pre-trial Conferences.

410.1. Trial Settings. A scheduling order, setting for trial, pre-trial conference, and discovery cut-off dates may be entered by the Court within sixty (60) days of the filing of the Petition. Each case in which a trial has been set must be ready on at least three (3) days' notice by the Court to the attorneys of record. Petitions for dissolution will be set by the Court as early as the Court's calendar permits. Contested matters that are ready for trial in less time than provided herein may be set for trial at the request of one or both of the parties as the calendar of the Court permits. Cases in which request for trial has been made must be ready on at least three (3) days' notice by the Court to the attorneys of record.

410.2. Pre-trial Conferences. On request of any party, a pre-trial conference shall be set by the Court ~~not fewer than thirty (30) days~~ prior to the trial date. Not fewer than five (5) days prior to the pre-trial conference, the parties shall exchange Pre-trial Statements.

410.3. Pre-trial Statements. Pre-trial Statements shall be prepared by each party prior to the pre-trial conference and shall address the following:

- (1) Preliminary Financial Statement, which shall include:
 - (a) Identification and valuation of assets;
 - (b) Identification and valuation of liabilities;

- (2) Identification of other contested issues, including custody, parenting time, support, post-secondary educational assistance, and rehabilitative maintenance;
- (3) Preliminary proposal for resolution of contested issues;
- (4) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (5) The names of witnesses to be called during the trial and the general nature of their expected testimony;
- (6) Such other matters as may aid in the disposition of the action.

At the conclusion of the pre-trial conference, the Court shall order the case to proceed to trial or continue the trial setting and order the parties to mediation if the Court determines mediation will assist in the resolution of contested matters.

410.4. Trial Submissions. Each party's final verified financial statement and contentions must be filed with the Court at least five (5) days before the date of trial. No case shall be considered ready for trial, or be tried, unless the report of the DRCB (where appropriate) has been filed with the Court.

Rule LR71-FL00-413. Mandatory Website Work and Co-Parenting Class.

413.1. Co-Parenting Class. In marital dissolution and separation cases, parents with one or more children under the age of eighteen (18) ~~twenty-one (21)~~ on the date of their initial petition shall attend a co-parenting class as assigned by the DRCB.

413.2. Marital Dissolution and Separation Cases. In marital dissolution and separation cases, parents with children under the age of eighteen (18) ~~twenty-one (21)~~ on the date of their initial petition shall complete the website work on www.UpToParents.org within thirty (30) days of the filing of the action. Parents shall submit a copy of "The Conclusion Page" (which appears as the final page of the website work) to the DRCB for filing with the Court to verify completion of the website work.

413.3. Paternity Cases. In paternity cases, parents shall attend the co-parenting class ordered by the Probate Court. Parents in paternity cases shall complete the website work at www.ProudToParent.org and take their completed website work to their co-parenting class.

413.4. Website Substitute. Parents open to the possibility of reconciliation can substitute the website work from www.WhileWeHeal.org.

- 413.5. Website Work Brought to Hearing.** Parents may be asked by the Court to bring their completed website work (Exercises and Agreed Commitments) to any hearing.

Rule LR71-FL00-416. Standing Order for Parental Education Workshop.

- 416.1. Findings.** The Judges of the St. Joseph Superior and Circuit Courts find that it would be in the best interest of society, of children, and of the Courts to encourage cooperation and mediation between separating and divorcing parents. We further find that a mandatory parental education workshop will:
- (1) Aid the children of divorcing parents;
 - (2) Aid the parents in post separation parenting;
 - (3) Encourage agreements between litigating parents in the best interests of their children; and
 - (4) Conserve Court time by reducing repetitive petitions over child custody, visitation, and support.
- 416.2. Selection of Provider(s).** The Judges of the St. Joseph Superior and Circuit Courts shall approve, annually, by order of the Court, one or more providers of a parental education program for the St. Joseph Superior Court. Approved program brochures shall be provided by the Clerk of the Court to petitioners and served with the summons upon each respondent by the Sheriff.
- 416.3. Attendance.** ~~The Judges of the St. Joseph Superior and Circuit Courts order both parties to any dissolution of marriage or separation action filed in the St. Joseph Superior Court after October 1, 1994 to attend~~ In all dissolution of marriage or separation actions filed in the St. Joseph Superior and Circuit Courts, both parties shall attend a parental education program approved by the Courts if the parties have a minor child or children less than the age of eighteen (18) as of the date of filing of the action. The parties are responsible to pay the cost of attending the program. All or a portion of the attendance fee may be waived for indigence by the assigned Judge. Waiver of attendance for completion of a similar program, individual counseling, or for other good cause is available from the assigned Judge in individual cases. Each parent must attend and complete the workshop within sixty (60) ~~forty-five (45)~~ days of the submission of his or her registration form with the DRCB. The workshop provider will furnish each participant and the Court with a certificate of completion of the program. A party that fails to complete the program within the required time period may be subject to a finding of contempt by the Court and appropriate sanctions.

416.4. DRCB Registration. Each parent in a dissolution or separation action involving a child or children under the age of eighteen (18) shall, within fifteen (15) five (5) days of the filing of the action, appear at the offices of the DRCB to complete a registration form. The offices of the DRCB are located on the 8th floor of the County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana 46601. Forms may be submitted between 8:30 a.m. and 4:00 p.m., Monday through Friday. Parents must provide the DRCB with the cause number of the dissolution or separation action at issue at the time they pre-register. Each parent will, at that time, be given a parental education class assignment. The DRCB will document registration and class attendance in the Clerk's file.

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Rule LR71-FL00-429. Reserved.

Rule LR71-FL00-430. Title IV-D Court.

These local rules are adopted by the Courts of the 60th Judicial Circuit to govern the practice and procedures in the Title IV-D Court, funded by an Ordinance of the St. Joseph County Council.

430.1 Organization of Title IV-D Child Support Court . Pursuant to I.C. 31-25-4-15, the Judges of the Circuit, Superior, and Probate Courts hereby establish a Title IV-D Court to Establish and enforce paternity and child support orders under federal and state law. One or more designated IV-D Magistrates of the St. Joseph Probate Court shall be jointly appointed by the Judges of the Circuit, Superior, and Probate Courts to provide such assistance as may be required in making findings of fact and recommendations for the approval of the Judge of Circuit or Superior Court in actions arising under Title IV-D of the Social Security Act. The Title IV-D Court shall be operated under the auspices and supervision of the Judge of the St. Joseph Probate Court. The Judge of the St. Joseph Probate Court shall assign such juvenile or probate magistrates as are necessary to handle the caseload assigned to the Title IV-D Court. A juvenile magistrate regularly assigned to the Title IV-D Court shall have the authority to hear and make recommendations about Title IV-D cases. In the absence of the regularly appointed juvenile magistrate, any magistrate of the St. Joseph Circuit Court, St. Joseph Superior Court, or St. Joseph Probate Court may hear and make recommendations upon assignment to the Title IV-D Court by the regularly presiding judge.

430.2 Reciprocal Support Paternity Cases

430.2.1 Transfer of Existing Reciprocal Cases. All reciprocal support paternity cases previously filed in Circuit Court under UIFSA and its predecessors, regardless of the stage in the proceedings, shall be permanently transferred by written ORDER OF TRANSFER to the Probate Court and assigned to the IV-D Court. Currently, the court identifier is 71C01 and the case type is either RS or MI. The cause numbers shall remain the same upon the transfer of these cases.

430.2.2 Filing of New Reciprocal Cases. All new reciprocal support paternity cases shall be directly filed in Probate Court and assigned to the IV-D Magistrate. The court identifier for these cases will be 71J01 and the case type will be RS.

430.3 IV-D Petitions for Support in favor of third party custodian

430.3.1 Existing Petitions for Support for Child Born Out of Wedlock. All IV-D Petitions for Support in favor of a third party custodian (i.e. child resides with someone other than parent) wherein the child is born out of wedlock and the action has arisen under Title IV-D previously filed in Circuit Court, shall be permanently transferred to the Probate Court by a written ORDER OF TRANSFER and assigned to the IV-D Magistrate. The cause numbers shall remain the same upon the transfer of these cases, with the court identifier being 71C01 and the case type DR.

430.3.2 New Petitions for Support for Child Born Out of Wedlock. All new IV-D Petitions for Support in favor of a third party custodian wherein the child is born out of wedlock and the action has arisen under Title IV-D shall be directly filed in Probate Court and assigned to the IV-D Magistrate. The court identifier for these cases will be 71J01 and the case type will be DR.

430.4 IV-D Petitions for Support for child of a marriage

430.4.1 Existing Petitions for Support for Child Born of a Marriage. All IV-D Petitions for Support wherein the support sought is for a child born of a marriage and the action has arisen under Title IV-D, may be assigned by a written ORDER OF ASSIGNMENT issued by the Judge of the Superior or Circuit Court to the IV-D Magistrate upon a written finding that there is a IV-D support issue to be resolved.

430.4.2 New Petitions for Support for Child Born of a Marriage. New IV-D Petitions for Support for a child born of a marriage will continue to be filed in Circuit Court but the case may be immediately be referred by a written ORDER OF ASSIGNMENT to the IV-D Magistrate.

430.5 IV-D Child Support Issues arising out of Legal Separation Decree or Dissolution of Marriage Provisional Orders

430.5.1 Pending Child Support Orders Arising from Legal Separation or Provisional Orders. All IV-D child support issues arising out of a Legal Separation Decree or out of a provisional order in a Dissolution of Marriage proceeding will NOT be assigned to the IV-D Magistrate.

430.5.2 Arrearages from Child Support Orders Arising from Legal Separation or Provisional Orders. Once a Legal Separation Decree expires by order or operation of law or once a Dissolution of Marriage Decree is granted, arrearage issues arising out of the provisional order or the Legal Separation Decree may then be assigned by written ORDER OF REFERRAL issued by the Judge of the Circuit/Superior Court to the IV-D Magistrate upon a written finding that there is a IV-D support issue to be resolved.

430.6 IV-D Child Support Issues arising out of Dissolution Decrees or Post-Dissolution Orders.

All IV-D child support issues arising out of a Dissolution Decree or a Post-Dissolution Order may be assigned by written ORDER OF ASSIGNMENT issued by the Judge of the Circuit/Superior Court to the IV-D Magistrate upon a written finding that there is a IV-D support issue to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D judicial officer

430.7 Procedure for Transfer of Cases to Probate Court:

Once a Judge of Circuit/Superior Court has permanently transferred a case involving IV-D matters to the Probate Court, the Local Probate Rules and the Local Rules for Electronic Filing will control. To effectuate the transfer, the following procedure will be followed:

- (1) The ORDER OF TRANSFER will be entered onto the original physical docket sheet as well as a notation that the case transferred into *QUEST*. No further entries shall be made on the original docket sheet. The flat file and original docket sheet shall be stored in the clerk's office of the court of origin.
- (2) A copy of that ORDER OF TRANSFER, a copy of the docket sheet, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the IVD Clerk.
- (3) Upon receipt of the ORDER OF TRANSFER being received, the IV-D Clerk shall enter the referred case into *QUEST*, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings.
- (4) The ORDER OF TRANSFER will be sent to all parties by the Child Support Division. If a pending issue requires an immediate setting of a hearing, the Child Support Division

shall also be responsible for coordinating the hearing date and time and notifying all parties.

430.8 Procedure for Referral of IV-D matters to the IV-D Magistrate:

Once a Judge of Circuit/Superior Court has referred a case involving IV-D matters to the IV-D Magistrate for the resolution of IV-D matters, the following procedure will control:

- (1) Cases may be considered for Referral at the oral or written request of any party or sua sponte by the referring Judge.
- (2) The Judge may issue a written ORDER OF REFERRAL upon a finding that a IV-D support issue needs to be resolved or upon a finding that the only remaining matters involved in the case are properly within the jurisdiction of the IV-D Magistrate. The ORDER OF REFERRAL will be entered onto the original physical docket sheet.
- (3) A copy of that ORDER OF REFERRAL, a copy of the docket sheet, and copies of any relevant pleadings including but not limited to the initial pleadings on any pending IV-D matters and all orders entered regarding any previous IV-D matter shall be compiled by the Child Support Division of Prosecutor's Office shall be provided to the IV-D Clerk located within the Probate Clerk's Office.
- (4) Upon an ORDER OF REFERRAL being entered, the Child Support Division shall provide an *ISETS & QUEST* Information Form to the IV-D Clerk.
- (5) Upon receipt of the ORDER OF REFERRAL being received, the IV-D Clerk shall enter the referred case into *QUEST*, and *ISETS* if necessary, and scan all orders, pleadings, and the docket sheet into *QUEST*. All court filings shall be done on *QUEST* pursuant to the Local Rules for Electronic Filings.
- (6) The ORDER OF REFERRAL will be sent to all parties by the Child Support Division. If a pending issue requires an immediate hearing, the Child Support Division shall also be responsible for coordinating the hearing date and time and notifying all parties.
- (7) All non-IV-D matters which arise following a referral to the IV-D Magistrate shall be filed with the Clerk of the originating Circuit/Superior Court. Assigned IV-D issues may be recalled by the referring judge at any time and the IV-D Magistrate shall send back the referring judge any referred issues that require the consideration of non-IV-D matters.
- (8) All findings and recommendations of the IV-D Magistrate shall become orders upon approval and adoption by the originating Judge of Circuit/Superior Court. Proposed orders shall be prepared in *QUEST* and transmitted electronically

along with a proposed Chronological Case Summary to the originating Judge for possible approval and adoption. The receiving Judge shall receive the electronic proposed orders by email and shall be responsible for periodically checking email for said proposed orders. Said orders will appear on the *QUEST* Documents to approve screen of the judge who signed the referral order so that said judge may approve or reject the IV-D Magistrate's order. Upon approval of the order, the Judge shall print out the order and CCS and provide this to the assigned Clerk who will make it a part of the flat file and add the CCS entry to the docket sheet.

- (9) All transfer, referral, or recall of cases shall be done by separate order of the sending or recalling judicial officer.
- (10) Procedure for Objection to Assignment: Assignment to the Title IVD Court is within the sole discretion of the regularly presiding judge to whom the case has been venued. A change of venue from the regularly presiding judge may be made under applicable Indiana Trial Rules or statutes. An objection to assignment to the Title IVD court shall be made to the regularly presiding judge and is within his/her discretion to grant or deny.

LOCAL EMERGENCY COURT RULES FOR ST. JOSEPH COUNTY (1000 SERIES)

~~Rule LR71-AR00-1002. Sheriff Service Fee.~~

~~1002.1. Service Fee to be Assessed in Routine Filings.~~ Effective instant, the Sheriff of St. Joseph County or his duly appointed deputies are authorized to collect a service processing fee (hereinafter "Sheriff Service Fee") in the amount of thirteen dollars (\$13.00) from each party requesting an "episode of service" by the Sheriff unless the assigned judge from a Court of competent jurisdiction directs otherwise. An "episode of service" is defined as the service of all papers to be served at the same time for the same hearing for up to ten (10) defendants.

~~1002.1.1. Calculation of Fees.~~ A party filing a new cause of action who requests that the Sheriff serve a summons, a subpoena, a motion for preliminary injunction, and a notice of hearing that are filed at the same time and that are set for hearing on the same date would constitute a single episode of service for which the Sheriff would charge thirteen dollars (\$13.00). The addition of a defendant at a later time would constitute a new episode of service and would require payment of an additional thirteen dollar (\$13.00) Sheriff Service Fee, along with a ten dollar (\$10.00) Clerk Service Fee.

~~1002.1.2. Petition for Immediate Possession.~~ A party filing a petition for immediate possession and who requests the Sheriff serve a summons and a notice of hearing would pay a thirteen dollar (\$13.00) fee for that episode of service. Following the hearing, should the Court issue a writ of immediate possession or writ of assistance, an additional thirteen dollar (\$13.00) fee would be required for Sheriff service of that writ. For good cause shown, the Court may direct the waiver of the Sheriff Service Fee on a case-by-case basis.

~~1002.2. Service Fee to be Assessed in Special Circumstances.~~ Where a moving party is serving more than 10 defendants or has an extraordinarily large or burdensome request for service, the party should contact the assigned judge to determine the appropriate Sheriff Service Fee for that particular situation. In those situations, the counsel for the Sheriff is also authorized to contact the moving party and/or the assigned judge to request direction from the Court.

~~1002.3. Matters Exempt from Service Fee.~~ The undersigned find that the following matters shall be exempt from payment of the Sheriff Service Fee:

- ~~(1) Petitions for protective orders where domestic violence is alleged;~~
- ~~(2) Causes of action filed by the State or on behalf of the Title IV-D program; and~~
- ~~(3) Subpoenas filed on behalf of criminal defendants.~~

~~Pauper filings approved by the assigned judge shall be served without prepayment of the Sheriff Service Fee. Other service requests may be exempted by specific Order of Court.~~

- ~~1002.4. Assistance by the Clerk of the Court.~~** ~~To effectuate the purposes of this Rule, the Clerk of the Court is authorized to accept payment of the Sheriff Service Fee in the form of a certified check, money order, or attorney draft made payable to the St. Joseph County Sheriff, and to forward these payments to the Sheriff along with the papers to be served. The Clerk is directed not to accept cash payments for the Sheriff Service Fee; however, cash payments may be made directly to the Sheriff.~~
- ~~1002.5. Proof of Payment/Service of Process.~~** ~~The Sheriff is directed to provide a receipt for each payment, whether made in cash or its equivalent, to the Clerk of the Court. The Clerk is directed to file the receipt in the appropriate flat file and to make an appropriate entry on the chronological case summary (CCS). Where the necessary fee is not provided by the moving party within seventy-two (72) hours after filing or as otherwise ordered by the Court (whichever shall occur first), the Sheriff shall return the papers to the Clerk with the notation "not served due to nonpayment of service fee" and the Clerk shall file the papers and make an appropriate entry on the CCS.~~
- ~~1002.6. Requirements for Service by Certified Mail.~~** ~~Where a party does not request service by Sheriff but instead selects service by certified mail, the moving party shall provide the Clerk of the Court with postage paid, return receipt requested envelope to effectuate service of process. Any variance with the procedures outlined herein requires prior written authorization from the assigned judge.~~